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SIPDIS

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SUBJECT: DUTCH VIEWS ON ADC LICENSE HARMONIZATION

REF: STATE 77513

1. (U) This message is sensitive but unclassified. Please protect accordingly.

2. (SBU) On May 7 econoff received the GONL response to reftel non-paper. The response came in the form of a letter to AS Wolf from Dirk Bruinsma, DG of Foreign Economic Relations of the Ministry of Economic Affairs. Text of the letter follows in para 4.

3. (SBU) Bruinsma,s letter restates the Netherlands, desire to reach an understanding with the U.S. on controlling the export of high-speed 14-bit ADCs to China (10th para) and comments favorably on most of the conditions suggested by the U.S. for inclusion in such an understanding (fifth para). The letter takes issue, however, with the idea of differential conditions for fully- and non-fully-PRC-owned manufacturers (sixth and seventh paras), and suggests that a flat non-reexport clause would be preferable to identifying specific countries for such a prohibition (eighth and ninth paras).

4. (SBU) BEGIN TEXT.

The U.S. Embassy in The Hague presented me on April 14th 2004 a non-paper titled &U.S. VIEWS ON ADC LICENSE HARMONIZATION UNDERSTANDING8. In reply I would like to give the following reaction.

Let me first assure you that the Netherlands export control authorities are equally pleased to work closely with their U.S. colleagues on a wide range of issues. Be it issues of mutual concern, of common interest or both. This applies to our efforts within the framework of the Wassenaar Arrangement as well as to our work on issues that might be more fruitfully approached and dealt with on a bilateral basis. As to the conditions that could be attached to supplies of high speed 14 bit ADCs to manufacturers of telecommunications equipment in China, we have been studying whether it would be reasonable and feasible to impose robust and yet viable parts control plans on the recipients of such supplies. Both the U.S. and the Netherlands have come to the conclusion that withholding high speed 14 bit ADCs from the Chinese efforts to create a 3rd generation mobile telecommunication infrastructure is neither a desirable nor ) considering the pace of development in this area ) a credible option. Therefore, our common focus is not to prevent foreign supplies, but to limit the risk of diversion of supplied ADCs from manufacturers of telecommunications equipment to military applications.

In this respect we have appreciated a previous U.S. non-paper, provided to us in the wake of the visit of U.S. officials last October, that described the kind of elements of parts control plans that could be envisaged to deal with such a risk. We equally appreciate the opportunity to include the ) in part ) additional conditions presented in the current non-paper in our studies. Especially the proposed conditions a,, b,, c,, d,, f,, g,, and i, will be taken into account in our assessment. The U.S. proposal to seek only an understanding to apply these or similar conditions to supplies to non-wholly-PRC-owned enterprises does not meet our support. In the Netherlands view such an understanding would have to cover the conditions attached to supplies of high speed 14 bit ADCs to any and all manufacturers of telecommunications equipment in China. Either a parts control plan limits the risk of diversion to a sufficient degree or it does not. A distinction between State owned or partially private or even partially foreign owned manufacturers hardly provides for additional assurances or safeguards but could at the same time very well limit the Chinese ADC market for foreign supplies to the extent that competition is unreasonably impeded.

As to the proposed conditions e, and h, of the current non-paper, it is our view that the concerns we might have over possible diversion of ADCs within China or elsewhere will most likely be more effectively alleviated by a straightforward non-re-export-clause than by including elaborate conditions to possible re-export.

The Chinese efforts to create a 3rd generation mobile telecommunication infrastructure to cover the whole or at least the most relevant part of the PRC is destined to drive the production capacity of existing Chinese manufacturers of

telecommunications equipment to the limit. Therefore, a more strict non-re-export-clause attached to foreign supplies should not present a problem for any of the current license applications.

Finally, the Netherlands export control authorities, once the appropriate conditions to be fulfilled by Chinese recipients of significant quantities of high speed 14 bit ADCs have been identified and declared applicable, are interested to come to some sort of bilateral license harmonization understanding with the U.S.

An exchange of letters at the appropriate level, describing the conditions decided upon as well as identifying the consignees and end-users that have declared to abide by these conditions, would in my view be adequate to structure and ensure such a harmonization of policy. This exchange of letters should of course also constitute an understanding that any changes in our respective policies towards this particular concern would have to be communicated to each other well in advance of being applied.

END TEXT.

SOBEL